

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

MICHAEL ISSAC SHEFFIELD, # 31673

PETITIONER

VERSUS

CIVIL ACTION NO. 4:10-cv-28-DPJ-FKB

**MARGARET BINGHAM AND
JIM HOOD**

RESPONDENTS

ORDER OF TRANSFER PURSUANT TO 28 U.S.C. § 1631

This matter comes before this Court, *sua sponte*, for consideration of the transfer of this cause. The Petitioner, an inmate currently incarcerated in the Central Mississippi Correctional Facility, Pearl, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254 on March 2, 2010. Petitioner states that on April 14, 1998, he was convicted of burglary of a dwelling in the Circuit Court of Lauderdale County, Mississippi, and sentenced to life without parole in the custody of the Mississippi Department of Corrections.

The Petitioner has previously filed for habeas relief in this Court challenging the same conviction, in civil action number 4:05-cv-57-TSL-LRA. On March 13, 2007, this Court entered a final judgment that dismissed the action with prejudice. On November 17, 2009, the United States Court of Appeals for the Fifth Circuit dismissed Petitioner's appeal as untimely, appeal number 09-60727. Additionally, on August 16, 2007, Petitioner filed another petition for habeas relief in this Court challenging this same conviction, in civil action number 4:07-cv-104-HTW-LRA. This petition was dismissed by this Court on August 27, 2007, having been found to be a second or successive petition filed without prior authorization of the United States Court of Appeals for the Fifth Circuit. The United States Court of Appeals for the Fifth Circuit denied

Petitioner's motion for authorization to file a successive § 2254 motion on November 6, 2007, case number 07-60679.

A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the interest of justice, this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. *See In Re Epps*, 127 F.3d 364 (5th Cir. 1997). Accordingly, it is hereby,

ORDERED that pursuant to 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED AND ADJUDGED this the 10th day of March, 2010.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE